

BE-93 FAQ

Why do I need to complete the BE-93? Is this survey mandatory?

Reports on this form are required in order to obtain reliable and up-to-date information on transactions concerning royalties, license fees, and other intangible rights between U.S. firms and unaffiliated foreign persons. The information will be used to help support trade negotiations, formulate U.S. policy, and analyze the impact of that policy and policies of foreign countries, on international trade in services. This data will also be used in compiling the U.S. international transactions and national income and product accounts. This survey has been mandated by Congress under the authority of the International Investment and Trade in Services Survey Act. If you receive this form, you must complete either an exemption claim or Part I or II.

Data reported on this survey is confidential and may be used only for analytical or statistical purposes. Without your prior written permission, the information filed on the survey CANNOT be presented in a manner that allows it to be individually identified. Your survey CANNOT be used for purposes of taxation, investigation, or regulation. Copies retained in your files are immune from legal process.

I don't have any transactions related to this survey. How do I file an exemption?

Look on the reverse (payments) side of the form near the bottom. Check box 3, and sign the certification section below that. Return the form to us as instructed. If you have transactions but they are \$2 million or less, you may check box 4. Don't forget to fill in the box beside box 4 if you have transactions of more than \$500 but \$2 million or less.

The company that this form was sent to either no longer exists or was purchased by another U.S. company. What should I do?

If the company is no longer in existence and was not purchased by another company, then you should check box 1 on the reverse (payments) side of the form near the bottom. If it was purchased by another U.S. company, or if its voting stock is owned to the extent of 50% or more by another U.S. company, then you should check box 2 and complete the box beside it. Whichever exemption claim you check, you must still complete the certification section at the bottom of the form before you send it back to us.

Is there any way to complete this form and submit it electronically?

Yes, we now have an electronic submission system available called "ASTAR." For further information, please visit <http://www.bea.gov/astar/BE93/>

How can I get a MS Excel version of this form?

You can get a MS Excel version of the BE-93 by sending an email to be-93@bea.gov This is an automated system, and it will automatically send you an excel version of the form. If you do not

receive one right away, either call (202) 606-9837 or email damon.battaglia@bea.gov for assistance.

Can I fax the completed form to you to save time?

Certainly. Our fax number here is (202) 606-5318. It is not necessary to address it to anyone's attention.

Can I email my completed form to you to save time?

Yes, but only if you completed the Microsoft Excel version of the form. Other versions are too large to transmit via electronic mail. You may email a completed BE-93 in MS Excel format to damon.battaglia@bea.gov

The address you sent this form to is no longer current. How do I update it?

You can update your company's address by crossing out the incorrect information at the top of the form and writing in the new address, or you may call (202) 606-9837 and we will update our files right away.

I won't be able to complete the form by the due date. Can I request an extension?

Yes. Extension requests must be put in writing and either sent to us via the mail or delivery address that appears in the upper left hand corner of the survey form. You may also fax an extension request to (202) 606-5318. Be sure to include your company's name, address, and the 10 digit alpha-numeric control number that appears at the top of the form's address label. In most cases companies will only be granted a 15 day extension. Extensions cannot be requested after the due date.

It's now past the due date and I did not request an extension. Can I still submit the form?

Absolutely. Late submissions are always accepted with full amnesty.

Can I obtain a copy of our company's prior year submission of this form?

Because of the confidential nature of the data reported on the BE-93, copies of what had been filed on previous years' BE-93's cannot be released **even to your own company** without your company's prior written permission. Such a written request should be on your company's letterhead and either mailed or faxed to BEA.

Should I report on an accrual basis or a cash basis?

All transactions should be reported on an accrual basis except for rights related to the broadcasting of the Olympic Games. Please report those transactions in the year in which the games take place.

What is an “unaffiliated foreign person?”

An affiliate is defined as any entity that your company has at least a ten percent direct ownership in, or a company that has at least ten percent direct ownership in you. No ownership or anything less than ten percent direct or indirect ownership would be considered unaffiliated. Foreign is defined as a person or entity that is not physically located within the United States, Puerto Rico, or U.S. territory such as Guam or the Marshall Islands.

Should I net payables against receivables?

No. Please report on a gross value basis. Any payments for royalties or licensing fees should be reported on the reverse or payments side of the BE-93 form.

You’re requesting data for fiscal year end 2003, but our fiscal year ends March 31, 2004. What should I do?

You should report for the period April 1, 2002 until March 31, 2003. If your fiscal year ends on January 31, you should report for the period beginning February 1, 2002 and ending January 31, 2003.

We have a licensing contract set up with a German company, but we send the payments to a Swiss bank. How should we report this transaction?

Since your contract is with a German entity, you should report this as a transaction with Germany. Where the money actually goes is irrelevant, even if you were to send your payments to a bank in New York City.

We have a licensing contract set up with a U.S. affiliate of a German company. Is this transaction applicable to the BE-93?

No. Since you're dealing with a U.S. affiliate of that German company, and your contract stipulates that transactions are to take place between you and them, then this would be considered a domestic transaction and therefore not applicable to the BE-93.

Does research and development go on the BE-93?

No. Research and development, as well as other services such as testing, management, and consulting, should be reported on the form BE-22. In fact, no services whatsoever should be reported on the BE-93. To get a complete list of services covered by the BE-22, go to <http://www.bea.gov/bea/surveys/be22.pdf> or call (202) 606-5588 for assistance.

What about goods?

No. Goods are merchandise trade and are not collected on any of the services surveys. The BE-93 is a survey of intangibles, such as licensing fees, patents, trademark royalties, and rights to broadcast. The BE-22 is a survey of selected services, such as accounting, advertising, and legal

services.

Which types of software transactions should be reported the BE-93, and which types should be reported on the BE-22?

First of all, the value of any prepackaged or “canned”, general use computer software that is physically shipped either to or from the United States should be excluded from both forms because it is considered a good. This also applies to the licensing fee that is included in the price of this type of software package. As with any tangible good that crosses U.S. borders, this transaction is reported to the U.S. Customs Department. The BE-93 only covers licensing fees associated with the right to distribute general use software that is electronically transmitted or made from a master copy. “General Use” software means any type of software that does not have to be customized or altered for each particular client. In other words, if you’re selling the same software package to 100 different customers without having to materially alter that software in any way, then it’s “general use” software. Custom software should be reported on the BE-22. Report on the BE-93 any licensing fees for software that is downloaded from the internet.

What should be reported in Column 10, “other intangibles?”

Generally, very little. Most transactions fall into one of the other seven categories, and column 10 is usually reserved for long term capacity agreements and fees for the indefeasible rights of users (IRU’s). If you have a transaction you think is applicable to BE-93, however, and you’re not sure where it should be listed, please put it in column 10 and describe the transaction in the box marked “comments” on the payments side of the form.

We do research and development work and receive milestone payments from time to time. Should I report these on the BE-93?

No. Milestone payments, like the actual R&D work itself, should be reported on the BE-22. The only types of milestone payments applicable to the BE-93 would be those related to marketing or license agreements. An example of this would be a pharmaceutical company that is receiving distribution royalties related to the marketing of one of their products, and receives a milestone payment when the distributor sells a certain number of units of the product.

Where should I report domain name registration and web hosting fees?

Report domain name registration fees under column 5, trademarks. Web hosting is considered a computer service, and should be reported on the BE-22.

An entity in our company which engaged in BE-93 transactions and reported data in the past was sold during the fiscal year for which you’re requesting data. Am I still responsible for reporting their data?

Yes. You should report any applicable transactions for that company from the beginning of the fiscal year up until the time that the entity was sold. That entity’s new parent company should

report any applicable transactions from the time they began ownership until the end of the fiscal year.

I've already used up lines 24-31 and I still have more countries that I need to list. What should I do?

Your mailout packet comes with an overflow sheet for listing countries and data when you've already exhausted lines 24-31. If you need more than one overflow sheet, or if your packet did not come with one, you can find one at <http://www.bea.gov/bea/surveys/be93.pdf> Please DO NOT use multiple copies of the survey form or lines 24-31 when listing additional countries.